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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,141	11/13/2003	Giuliano Cacucci	2835-73803	9555
23643	7590	05/18/2005	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			PAPE, JOSEPH	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/713,141	Applicant(s) CACUCCI ET AL.	
	Examiner Joseph D. Pape	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 18, 20, 23 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19, 21, 22, 24 and 26-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/9/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Tucker. Tucker discloses the claimed invention including a “passive” barrier net 18 manually movable between a first stowed position and a first deployed position covering a portion of the exit defined by the window opening. See Figure 4. The barrier is capable of being continuously positioned in the first deployed position and can be seen through during operation of the vehicle. The barrier is locked in the deployed position by fastener 28.
3. Claims 1-7, 9, 12-15 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutherland et al. Sutherland et al. disclose the claimed invention including a “passive” barrier net 12 movable between a first stowed position and a first deployed position covering a portion of the exit defined by the window opening. Since applicant has defined

the "passive" barrier to include automatic deployment means therefor upon the occurrence of a defined event (specification page 10, lines 10-24), Sutherland et al. is considered to show a "passive" barrier that is also automatically deployed upon a defined event. The barrier is capable of being continuously positioned in the first deployed position during operation of the vehicle in that in response to a defined event while the vehicle is being operated the net is deployable. The barrier can be seen through during operation of the vehicle. The barrier includes locking means comprising teeth 58 on track 48 that "lock" the barrier in a deployed position. The barrier includes a mechanical device 90, 92, 54, 56 to move the barrier between the first stowed and first deployed positions. The mechanical device includes retractor 92, motor 56 and a controller 104 of a control system. Upon activation of the barrier by the control system the locking means function to lock the barrier in a deployed position.

4. Claims 1-6, 9-15 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Gronlund et al.

Gronlund discloses the claimed invention including a "passive" barrier 28 selectively movable between a first stowed position and a first deployed position covering a portion of the exit defined by the window opening. The barrier is capable of being continuously positioned in the first deployed position and can be seen through during operation of the vehicle. The barrier includes a mechanical moving device 84, 76, 70, 66. The mechanical device includes motor 84.

Re claims 14-15, the barrier also includes a control system including switch 86.

Upon switching the motor off with switch 86 of the control system, the barrier is "locked" in either a stowed or a deployed position by virtue of lifting rings 66, 68 being threadably held in place relative to screws 70, 72.

5. Claims 21, 22, 24, 26-28 and 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Asano et al.

Asano et al. disclose the claimed invention including a safety barrier 210 with a horizontal bladder 225 and vertical bladders 224. The barrier has a stowed position and a deployed position covering a portion of the exit defined by the window opening and a control system, including sensor 12, for moving the barrier from the stowed position to the deployed position by inflation of the bladders by inflator 14. Reference Figure 16.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 16, 17, 19 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gronlund et al. in view of Asano et al.

Gronlund et al. disclose the claimed invention except for a reactive safety barrier. Asano et al. disclose in Figure 16 a reactive safety barrier or curtain 210 with a horizontal bladder 225 and vertical bladders 224. The barrier has a stowed and a deployed position and a control system, including sensor 12, for moving the barrier from the stowed position to the deployed position by inflation of the bladders by inflator 14. The sensor detects a side collision which may lead to a roll over of the vehicle. Thus sensor 12 is considered to be a "roll sensor" as broadly as recited.

It would have been obvious to one of obvious skill in the art at the time the invention was made to provide the vehicle of Gronlund et al. with an inflatable

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side curtain barrier as taught by Asano et al. in order to enhance protection of the occupant's head upon a vehicle collision.

### ***Response to Arguments***

9. Applicant's arguments filed 2/23/05 have been fully considered but they are not persuasive. In each of Tucker, Sutherland and Gronlund et al. the window is considered to be the "open exit" set forth in the claims. In each instance the window open exit is unimpeded by any structure including the safety barrier in one position and when deployed the safety barrier covers at least a portion of the open window exit in order to impede the occupant's egress through the window exit. Regarding the rejection of claims 16, 17, 19 and 30, Gronlund et al. disclose the use of a safety barrier to protect an occupant's head and Asano et al. show an enhancement for such protection. Thus the motivation to provide Gronlund et al. with an inflatable side curtain as taught by Asano et al. for occupant head enhanced protection is considered to be present in both references.

### ***Conclusion***

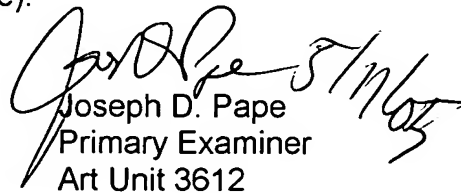
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (703) 308-3426. The examiner can normally be reached on Tues.-Fri. (6:00-4:30).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joseph D. Pape  
Primary Examiner  
Art Unit 3612

Jdp  
May 11, 2005